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3                   UNITED STATES DISTRICT COURT  
4                   WESTERN DISTRICT OF WASHINGTON  
5                   AT TACOMA

6                   THOMAS WILLIAM SINCLAIR  
7                   RICHEY,

8                   v.  
9                   Plaintiff,

10                  DENNIS THAUT,  
11                  Defendant.

No. C11-5680 RBL/KLS

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

12                  The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen  
13 L. Strombom, objections to the Report and Recommendation, if any, and the remaining record,  
14 does hereby find and **ORDER**:

- 15                 1)      The Court adopts the Report and Recommendation.
- 16                 2)      Defendants' Motion to Dismiss (ECF No. 14) is **GRANTED**; Plaintiff's  
17                 claims are **Dismissed without Prejudice for failure to exhaust and that  
the dismissal count as a strike pursuant to 28 U.S.C. § 1915(g)**.
- 18                 3)      The Clerk is directed to send copies of this Order to Plaintiff, counsel for  
19                 Defendant and to the Hon. Karen L. Strombom.

20                  **DATED** this 26<sup>th</sup> day of March, 2011.

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24                  RONALD B. LEIGHTON  
25                  UNITED STATES DISTRICT JUDGE  
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